

**HOUSE BILL No. 2341**

By Committee on Transportation

2-10

1 AN ACT concerning motor vehicles; relating to the vehicle dealers and  
2 manufacturing act; permitting first and second stage vehicle  
3 manufacturers to be vehicle dealers; eliminating territory restrictions  
4 for vehicle dealers; creating an interest rate cap for motor vehicle loans;  
5 amending K.S.A. 8-2438 and K.S.A. 2020 Supp. 8-2404, 8-2444 and  
6 16-207 and repealing the existing sections; also repealing K.S.A. 8-  
7 2430, 8-2431 and 8-2432.

8  
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2020 Supp. 8-2404 is hereby amended to read as  
11 follows: 8-2404. (a) No vehicle dealer shall engage in business in this state  
12 without obtaining a license as required by this act. Any vehicle dealer  
13 holding a valid license and acting as a vehicle salesperson shall not be  
14 required to secure a salesperson's license.

15 (b) No first stage manufacturer, second stage manufacturer, factory  
16 branch, factory representative, distributor branch or distributor  
17 representative shall engage in business in this state without a license as  
18 required by this act, regardless of whether or not an office or other place of  
19 business is maintained in this state for the purpose of conducting such  
20 business.

21 (c) An application for a license shall be made to the director and shall  
22 contain the information provided for by this section, together with such  
23 other information as may be deemed reasonable and pertinent, and shall be  
24 accompanied by the required fee. The director may require in the  
25 application, or otherwise, information relating to the applicant's solvency,  
26 financial standing, or other pertinent matter commensurate with the  
27 safeguarding of the public interest in the locality ~~in which~~ where the  
28 applicant proposes to engage in business, all of which may be considered  
29 by the director in determining the fitness of the applicant to engage in  
30 business as set forth in this section. The director may require the applicant  
31 for licensing to appear at such time and place as may be designated by the  
32 director for examination to enable the director to determine the accuracy of  
33 the facts contained in the written application, either for initial licensure or  
34 renewal thereof. Every application under this section shall be verified by  
35 the applicant.

36 (d) All licenses shall be granted or refused within 30 days after

1 application is received by the director. All licenses, except licenses issued  
2 to salespersons, shall expire, unless previously suspended or revoked, on  
3 December 31 of the calendar year ~~for which~~ that they are granted, except  
4 that where a complaint respecting the cancellation, termination or  
5 nonrenewal of a sales agreement is in the process of being heard, no  
6 replacement application shall be considered until a final order is issued by  
7 the director. Applications for renewals, except for renewals of licenses  
8 issued to salespersons, received by the director after February 15 shall be  
9 considered as new applications. All salespersons' licenses shall expire,  
10 unless previously suspended or revoked, on June 30 of the calendar year  
11 ~~for which~~ that they are granted. Applications for renewals of salespersons'  
12 licenses received by the director after July 15 shall be considered as new  
13 applications. All licenses for supplemental places of business existing or  
14 issued on or after January 1, 1994, shall expire on December 31 of the  
15 calendar year ~~for which~~ that they are granted, unless previously suspended  
16 or revoked.

17 (e) License fees for each calendar year, or any part thereof shall be as  
18 follows:

- 19 (1) For new vehicle dealers, \$75;
- 20 (2) for distributors, \$75;
- 21 (3) for wholesalers, \$75;
- 22 (4) for distributor branches, \$75;
- 23 (5) for used vehicle dealers, \$75;
- 24 (6) for first and second stage manufacturers, \$225 plus \$75 for each  
25 factory branch in this state;
- 26 (7) for factory representatives, \$50;
- 27 (8) for distributor representatives, \$50;
- 28 (9) for brokers, \$75;
- 29 (10) for lending agencies, \$50;
- 30 (11) for first and second stage converters, \$50;
- 31 (12) for salvage vehicle dealers, \$75;
- 32 (13) for auction motor vehicle dealers, \$75;
- 33 (14) for vehicle salesperson, \$25;
- 34 (15) for insurance companies, \$75;
- 35 (16) for vehicle crusher, \$75;
- 36 (17) for vehicle recycler, \$75;
- 37 (18) for scrap metal recycler, \$75;
- 38 (19) for rebuilders, \$75; and
- 39 (20) for salvage vehicle pool, \$75.

40 Any new vehicle dealer who is also licensed as a used vehicle dealer  
41 shall be required to pay only one \$75 fee for both licenses.

42 (f) Dealers may establish approved supplemental places of business  
43 within the same county of their licensure or, with respect to new vehicle

1 dealers, within their area of responsibility as defined in their franchise  
2 agreement. Those doing so shall be required to pay a supplemental license  
3 fee of \$35. ~~In addition to any other requirements, new vehicle dealers~~  
4 ~~seeking to establish supplemental places of business shall also comply~~  
5 ~~with the provisions of K.S.A. 8-2430 through 8-2432, and amendments~~  
6 ~~thereto.~~ A new vehicle dealer establishing a supplemental place of business  
7 in a county other than such dealer's county of licensure but within such  
8 dealer's area of responsibility as defined in such dealer's franchise  
9 agreement shall be licensed only to do business as a new motor vehicle  
10 dealer in new motor vehicles at such supplemental place of business.  
11 Original inspections by the division of a proposed established place of  
12 business shall be made at no charge except that a \$30 fee shall be charged  
13 by the division for each additional inspection the division must make of  
14 such premises in order to approve the same.

15 (g) The license of all persons licensed under the provisions of this act  
16 shall state the address of the established place of business, office, branch  
17 or supplemental place of business and must be conspicuously displayed  
18 therein. The director shall endorse a change of address on a license without  
19 charge if: (1) The change of address of an established place of business,  
20 office, branch or supplemental place of business is within the same county;  
21 or (2) the change of address of a supplemental place of business, with  
22 respect to a new vehicle dealer, is within such dealer's area of  
23 responsibility as defined in their franchise agreement. A change of address  
24 of the established place of business, office or branch to a different county  
25 shall require a new license and payment of the required fees but such new  
26 license and fees shall not be required for a change of address of a  
27 supplemental place of business, with respect to a new vehicle dealer, to a  
28 different county but within the dealer's area of responsibility as defined in  
29 their franchise agreement.

30 (h) Every salesperson, factory representative or distributor  
31 representative shall carry on their person a certification that the person  
32 holds a valid state license. The certification shall name the person's  
33 employer and shall be displayed upon request. An original copy of the  
34 state license for a vehicle salesperson shall be mailed or otherwise  
35 delivered by the division to the employer of the salesperson for public  
36 display in the employer's established place of business. When a  
37 salesperson ceases to be employed as such, the former employer shall mail  
38 or otherwise return the original copy of the employee's state license to the  
39 division. A salesperson, factory representative or distributor representative  
40 who terminates employment with one employer may file an application  
41 with the director to transfer the person's state license in the name of  
42 another employer. The application shall be accompanied by a \$12 transfer  
43 fee. A salesperson, factory representative or distributor representative who

1 terminates employment, and does not transfer the state license, shall mail  
2 or otherwise return the certification that the person holds a valid state  
3 license to the division.

4 (i) If the director has reasonable cause to doubt the financial  
5 responsibility or the compliance by the applicant or licensee with the  
6 provisions of this act, the director may require the applicant or licensee to  
7 furnish and maintain a bond in such form, amount and with such sureties  
8 as the director approves, but such amount shall be not less than \$5,000 nor  
9 more than \$20,000, conditioned upon the applicant or licensee complying  
10 with the provisions of the statutes applicable to the licensee and as  
11 indemnity for any loss sustained by a retail or wholesale buyer or seller of  
12 a vehicle by reason of any act by the licensee constituting grounds for  
13 suspension or revocation of the license. Every applicant or licensee who is  
14 or applies to be a used vehicle dealer or a new vehicle dealer shall furnish  
15 and maintain a bond in such form, amount and with such sureties as the  
16 director approves, conditioned upon the applicant or licensee complying  
17 with the provisions of the statutes applicable to the licensee and as  
18 indemnity for any loss sustained by a retail or wholesale buyer or seller of  
19 a vehicle by reason of any act by the licensee in violation of any act ~~which~~  
20 *that* constitutes grounds for suspension or revocation of the license. The  
21 amount of such bond shall be \$30,000. To comply with this subsection,  
22 every bond shall be a corporate surety bond issued by a company  
23 authorized to do business in the state of Kansas and shall be executed in  
24 the name of the state of Kansas for the benefit of any aggrieved retail or  
25 wholesale buyer or seller of a vehicle. The aggregate liability of the surety  
26 for all breaches of the conditions of the bond in no event shall exceed the  
27 amount of such bond. The surety on the bond shall have the right to cancel  
28 the bond by giving 30 days' notice to the director, and thereafter the surety  
29 shall be relieved of liability for any breach of condition occurring after the  
30 effective date of cancellation. Bonding requirements shall not apply to first  
31 or second stage manufacturers, factory branches, factory representatives or  
32 salespersons. Upon determination by the director that a judgment from a  
33 Kansas court of competent jurisdiction is a final judgment and that the  
34 judgment resulted from an act in violation of this act or would constitute  
35 grounds for suspension, revocation, refusal to renew a license or  
36 administrative fine pursuant to K.S.A. 8-2411, and amendments thereto,  
37 the proceeds of the bond on deposit or in lieu of bond provided by  
38 subsection (j), shall be paid. The determination by the director under this  
39 subsection is hereby specifically exempted from the Kansas administrative  
40 procedure act and the Kansas judicial review act. Any proceeding to  
41 enforce payment against a surety following a determination by the director  
42 shall be prosecuted by the judgment creditor named in the final judgment  
43 sought to be enforced. Upon a finding by the court in such enforcement

1 proceeding that a surety has wrongfully failed or refused to pay, the court  
2 shall award reasonable attorney fees to the judgment creditor.

3 (j) An applicant or licensee may elect to satisfy the bonding  
4 requirements of subsection (i) by depositing with the state treasurer cash,  
5 negotiable bonds of the United States or of the state of Kansas or  
6 negotiable certificates of deposit of any bank organized under the laws of  
7 the United States or of the state of Kansas. The amount of cash, negotiable  
8 bonds of the United States or of the state of Kansas or negotiable  
9 certificates of deposit of any bank organized under the laws of the United  
10 States or of the state of Kansas deposited with the state treasurer shall be  
11 in an amount of no less than \$30,000. When negotiable bonds or  
12 negotiable certificates of deposit have been deposited with the state  
13 treasurer to satisfy the bonding requirements of subsection (i), such  
14 negotiable bonds or negotiable certificates of deposit shall remain on  
15 deposit with the state treasurer for a period of not less than two years after  
16 the date of delivery of the certificate of title to the motor vehicle ~~which~~  
17 *that* was the subject of the last motor vehicle sales transaction ~~in which~~  
18 *that* the licensee engaged prior to termination of the licensee's license. In  
19 the event a licensee elects to deposit a surety bond in lieu of the negotiable  
20 bonds or negotiable certificates of deposit previously deposited with the  
21 state treasurer, the state treasurer shall not release the negotiable bonds or  
22 negotiable certificates of deposit until at least two years after the date of  
23 delivery of the certificate of title to the motor vehicle ~~which~~ *that* was the  
24 subject of the last motor vehicle sales transaction ~~in which~~ *that* the  
25 licensee engaged prior to the date of the deposit of the surety bond. The  
26 cash deposit or market value of any such securities shall be equal to or  
27 greater than the amount of the bond required for the bonded area and any  
28 interest on those funds shall accrue to the benefit of the depositor.

29 (k) No license shall be issued by the director to any person to act as a  
30 new or used dealer, wholesaler, broker, salvage vehicle dealer, auction  
31 motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap  
32 metal recycler, salvage vehicle pool, second stage manufacturer, first stage  
33 converter, second stage converter or distributor unless the applicant for the  
34 vehicle dealer's license maintains an established place of business ~~which~~  
35 *that* has been inspected and approved by the division. First stage  
36 manufacturers, factory branches, factory representatives, distributor  
37 branches, distributor representatives and lending agencies are not required  
38 to maintain an established place of business to be issued a license.

39 (l) Dealers required under the provisions of this act to maintain an  
40 established place of business shall own or have leased and use sufficient  
41 lot space to display vehicles at least equal in number to the number of  
42 dealer license plates the dealer has had assigned.

43 (m) A sign with durable lettering at least 10 inches in height and

1 easily visible from the street identifying the established place of business  
2 shall be displayed by every vehicle dealer. Notwithstanding the other  
3 provisions of this subsection, the height of lettering of the required sign  
4 may be less than 10 inches as necessary to comply with local zoning  
5 regulations.

6 (n) If the established or supplemental place of business or lot is  
7 zoned, approval must be secured from the proper zoning authority and  
8 proof that the use complies with the applicable zoning law, ordinance or  
9 resolution must be furnished to the director by the applicant for licensing.

10 (o) An established or supplemental place of business, otherwise  
11 meeting the requirements of this act may be used by a dealer to conduct  
12 more than one business, provided that suitable space and facilities exist  
13 therein to properly conduct the business of a vehicle dealer.

14 (p) If a supplemental place of business is not operated on a  
15 continuous, year-round basis, the dealer shall give the department 15 days'  
16 notice as to the dates ~~on which~~ *that* the dealer will be engaged in business  
17 at the supplemental place of business.

18 (q) Any vehicle dealer selling, exchanging or transferring or causing  
19 to be sold, exchanged or transferred new vehicles in this state must  
20 satisfactorily demonstrate to the director that such vehicle dealer has a  
21 bona fide franchise agreement with the first or second stage manufacturer  
22 or distributor of the vehicle, to sell, exchange or transfer the same or to  
23 cause to be sold, exchanged or transferred.

24 No person may engage in the business of buying, selling or exchanging  
25 new motor vehicles, either directly or indirectly, unless such person holds  
26 a license issued by the director for the make or makes of new motor  
27 vehicles being bought, sold or exchanged, or unless a person engaged in  
28 such activities is not required to be licensed or acts as an employee of a  
29 licensee and such acts are only incidentally performed. For the purposes of  
30 this section, engaged in the business of buying, selling or exchanging new  
31 motor vehicles, either directly or indirectly, includes:

- 32 (1) Displaying new motor vehicles on a lot or showroom;
- 33 (2) advertising new motor vehicles, unless the person's business  
34 primarily includes the business of broadcasting, printing, publishing or  
35 advertising for others in their own names; or
- 36 (3) regularly or actively soliciting or referring buyers for new motor  
37 vehicles.

38 (r) No person may engage in the business of buying, selling or  
39 exchanging used motor vehicles, either directly or indirectly, unless such  
40 person holds a license issued by the director for used motor vehicles being  
41 bought, sold or exchanged, or unless a person engaged in such activities is  
42 not required to be licensed or acts as an employee of a licensee and such  
43 acts are only incidentally performed. For the purposes of this section,

1 engaged in the business of buying, selling or exchanging used motor  
2 vehicles, either directly or indirectly, includes:

3 (1) Displaying used motor vehicles on a lot or showroom;

4 (2) advertising used motor vehicles, unless the person's business  
5 primarily includes the business of broadcasting, printing, publishing or  
6 advertising for others in their own names; or

7 (3) regularly or actively soliciting buyers for used motor vehicles.

8 (s) The director of vehicles shall publish a suitable Kansas vehicle  
9 salesperson's manual. Before a vehicle salesperson's license is issued, the  
10 applicant for an original license shall be required to pass a written  
11 examination based upon information in the manual. Thereafter, any  
12 salesperson licensee may be required to be re-tested at the discretion of the  
13 director based upon terms and conditions established by the director.

14 (t) No new license shall be issued nor any license renewed to any  
15 person to act as a salvage vehicle dealer until the division has received  
16 evidence of compliance with the junkyard and salvage control act as set  
17 forth in K.S.A. 68-2201 et seq., and amendments thereto.

18 (u) ~~On and after the effective date of this act,~~ No person shall act as a  
19 broker in the advertising, buying or selling of any new or used motor  
20 vehicle. Nothing herein shall be construed to prohibit a person duly  
21 licensed under the requirements of this act from acting as a broker in  
22 buying or selling a recreational vehicle as defined by K.S.A. 75-1212(f),  
23 and amendments thereto, when the recreational vehicle subject to sale or  
24 purchase is a used recreational vehicle ~~which~~ that has been previously  
25 titled and independently owned by another person for a period of 45 days  
26 or more, or is a new or used recreational vehicle repossessed by a creditor  
27 holding security in such vehicle.

28 (v) Nothing herein shall be construed to prohibit a person not  
29 otherwise required to be licensed under this act from selling such person's  
30 own vehicle as an isolated and occasional sale.

31 Sec. 2. K.S.A. 8-2438 is hereby amended to read as follows: 8-2438.

32 (a) Except as provided by this section, and notwithstanding any other  
33 provisions of the vehicle dealers and manufacturers licensing act, with  
34 respect to motor vehicles, a first stage manufacturer of vehicles or second  
35 stage manufacturer of vehicles, factory branch, distributor branch, or  
36 distributor, distributor or factory representative, may ~~not~~ directly or  
37 indirectly:

38 (1) Own an interest in a new vehicle dealer or dealership;

39 (2) operate a new vehicle dealer or dealership; or

40 (3) act in the capacity of a new vehicle dealer or dealership, or  
41 otherwise sell new vehicles at retail.

42 ~~(b) A first stage manufacturer or second stage manufacturer of~~  
43 ~~vehicles, factory branch, distributor branch, or distributor, distributor or~~

1 factory representative may own an interest in a franchised dealer or  
2 dealership, or otherwise control a dealership, for a period not to exceed 12  
3 months from the date the first or second stage manufacturer of vehicles,  
4 factory branch, distributor branch, or distributor, distributor or factory  
5 representative, acquires the dealership if:

6 (1) The person from whom the dealer or dealership was acquired was  
7 new vehicle dealer; and

8 (2) the dealership is for sale by the first stage manufacturer or second  
9 stage manufacturer of vehicles, factory branch, distributor branch, or  
10 distributor, distributor or factory representative, at a reasonable price and  
11 on reasonable terms and conditions.

12 (c) On a showing of good cause by a first stage manufacturer or  
13 second stage manufacturer of vehicles, factory branch, distributor branch,  
14 or distributor, distributor or factory representative, as the case may be, the  
15 director may extend the time limit set forth in subsection (b) one time for a  
16 period of not to exceed 12 months.

17 (d) For the purpose of broadening the diversity of its dealer body and  
18 enhancing opportunities for qualified persons who are part of a group who  
19 have historically been under-represented in its dealer body, or other  
20 qualified persons who lack the resources to purchase a dealership outright,  
21 but for no other purpose, a first stage manufacturer or second stage  
22 manufacturer of vehicles, factory branch, distributor branch, or distributor,  
23 distributor or factory representative, may temporarily own an interest in a  
24 new vehicle dealer or dealership if the first or second stage manufacturer  
25 of vehicles, factory branch, distributor branch, or distributor, distributor or  
26 factory representative's participation in the new vehicle dealer or  
27 dealership is in a bona fide relationship with a new vehicle dealer who:

28 (1) Has made a significant investment in the new vehicle dealer or  
29 dealership, which is subject to loss;

30 (2) has an ownership interest in the new vehicle dealer or dealership;  
31 and

32 (3) operates the new vehicle dealer or dealership under a plan to  
33 acquire full ownership of the new vehicle dealer or dealership within a  
34 reasonable time and under reasonable terms and conditions.

35 (e) A first stage manufacturer of vehicles or a second stage  
36 manufacturer of vehicles may own a minority interest in an entity that  
37 owns and operates a new vehicle dealer, licensed under the dealers and  
38 manufacturer's licensing act, of the line-make manufactured by the first or  
39 second stage manufacturer if all of the new vehicle dealers owned and  
40 operated by the entity in this state are new vehicle dealers of only the line-  
41 make manufactured by the manufacturer and if, on January 1, 2000: (1)  
42 There were not more than two new vehicle dealers of that line-make  
43 licensed as new vehicle dealers in this state; and (2) at the time the



1 ~~manufacturer first acquires an ownership interest or assumes operation or~~  
 2 ~~control, the distance between any new vehicle dealer owned and operated~~  
 3 ~~by an entity in which the manufacturer has an ownership interest and the~~  
 4 ~~nearest unaffiliated new vehicle dealer of the same line-make is not less~~  
 5 ~~than 100 miles.~~

6 ~~(f)~~(b) The words or phrases used in this section shall have the  
 7 meanings otherwise provided by law, except the following specific words  
 8 or phrases:

9 (1) "Dealership" means any physical premises, equipment, and  
 10 business facilities on or with which a new vehicle dealer operates its  
 11 business, including the sale or repair of motor vehicles. "Dealership"  
 12 includes premises or facilities at which a person engages in the repair of  
 13 motor vehicles if repairs are performed pursuant to the terms of a franchise  
 14 agreement or a motor vehicle manufacturer's warranty; and

15 (2) "line-make vehicle" means those new motor vehicles ~~which~~ *that*  
 16 are offered for sale, lease or distribution under a common name,  
 17 trademark, service mark or brand name of the manufacturer or distributor  
 18 of the same.

19 ~~(g) The provisions of this section shall not apply to a first stage~~  
 20 ~~manufacturer or second stage manufacturer of vehicles, factory branch,~~  
 21 ~~distributor branch, or distributor, distributor or factory representative as to~~  
 22 ~~only those dealers or dealerships which are already owned by such first~~  
 23 ~~stage manufacturer or second stage manufacturer of vehicles, factory~~  
 24 ~~branch, distributor branch, or distributor, distributor or factory~~  
 25 ~~representative, as the case may be, on the effective date of this act.~~

26 Sec. 3. K.S.A. 2020 Supp. 8-2444 is hereby amended to read as  
 27 follows: 8-2444. (a) Upon proper application on a form approved by the  
 28 division of vehicles, the director of vehicles may issue a license known as  
 29 a temporary trade show license. A fee in the amount of \$50 shall be paid  
 30 by an applicant for each trade show license. Such license shall only allow  
 31 the display of new trucks, truck tractors or semitrailers as defined by  
 32 K.S.A. 8-126, and amendments thereto, or new recreational motor  
 33 vehicles, at a location other than the established or supplemental place of  
 34 business of the dealer. If trucks or truck tractors are displayed at such trade  
 35 show, only trucks or truck tractors with a gross weight rating of 26,000  
 36 pounds or more shall be displayed at such trade shows. No sales  
 37 transactions may occur under such temporary trade show license or at any  
 38 such authorized display location.

39 (b) The following shall apply to the issuance of a temporary trade  
 40 show license:

41 (1) New vehicle dealers in each particular same line-make of truck,  
 42 truck tractor, semitrailer or recreational motor vehicle whose relevant  
 43 market area, ~~as defined by K.S.A. 8-2430, and amendments thereto,~~

1 includes the proposed site of the trade show display, shall be invited to  
2 attend and to participate in the trade show display;

3 (2) the trade show shall not exceed four consecutive days;

4 (3) each dealer has received the prior approval of the first stage  
5 manufacturer, second stage manufacturer, first stage converter or second  
6 stage converter for each line-make of truck, truck tractor, semitrailer or  
7 recreational vehicle to be displayed and the fact the event will be a trade  
8 show has been disclosed at the time of seeking such approval;

9 (4) if the applicant is not a Kansas licensee, then such applicant must  
10 be licensed in a state which permits vehicle dealers licensed in Kansas  
11 who sell trucks, truck tractors, semitrailers and recreational vehicles to  
12 participate in vehicle shows in such state pursuant to conditions  
13 substantially equivalent or less than the conditions ~~which~~ *that* are imposed  
14 on dealers from such state who participate in vehicle shows in Kansas;

15 (5) if ~~less~~ *fewer* than 50 vehicle dealers participate as exhibitors at  
16 such trade shows, then at least 50% of the participating vehicle dealers  
17 shall be as licensed motor vehicle dealers in this state;

18 (6) ~~not~~ more than two trade show licenses shall be issued per  
19 participant per county per year;

20 (7) the requirements of ~~subsections (i) and (n) of K.S.A. 8-2404, and~~  
21 ~~amendments thereto;~~ *(i) and (n)* and ~~K.S.A. 8-2405, and amendments~~  
22 ~~thereto,~~ shall be satisfied by each motor vehicle dealer;

23 (8) a disclaimer that the trucks, truck tractors, semitrailers or  
24 recreational motor vehicles are for display purposes only and not for sale  
25 shall be placed on such vehicles in a clear and conspicuous manner to be  
26 prescribed by the director; and

27 (9) such other provisions of the dealers and manufacturers licensing  
28 act, K.S.A. 8-2401 et seq., and amendments thereto, designated applicable  
29 by the director of vehicles.

30 (c) Any dealer displaying at any such trade show shall be licensed in  
31 this or another state as a vehicle dealer under the laws of this or another  
32 jurisdiction and shall pay a fee of \$35.

33 (d) The provisions of this section shall be a part of and supplemental  
34 to the vehicle dealers and manufacturers licensing act.

35 Sec. 4. K.S.A. 2020 Supp. 16-207 is hereby amended to read as  
36 follows: 16-207. (a) Subject to the following provision, the parties to any  
37 bond, bill, promissory note or other instrument of writing for the payment  
38 or forbearance of money may stipulate therein for interest receivable upon  
39 the amount of such bond, bill, note or other instrument of writing, at a rate  
40 not to exceed 15% per annum unless otherwise specifically authorized by  
41 law.

42 (b) No penalty shall be assessed against any party for prepayment of  
43 any home loan evidenced by a note secured by a real estate mortgage

1 where such prepayment is made more than six months after execution of  
2 such note.

3 (c) The lender may collect from the borrower:

4 (1) The actual fees paid a public official or agency of the state, or  
5 federal government, for filing, recording or releasing any instrument  
6 relating to a loan subject to the provisions of this section; and

7 (2) reasonable expenses incurred by the lender in connection with the  
8 making, closing, disbursing, extending, readjusting or renewing of loans  
9 subject to the provisions of this section.

10 (d) Any person so contracting for a greater rate of interest than that  
11 authorized by this section shall forfeit all interest so contracted for in  
12 excess of the amount authorized under this section; and in addition thereto  
13 shall forfeit a sum of money, to be deducted from the amount due for  
14 principal and lawful interest, equal to the amount of interest contracted for  
15 in excess of the amount authorized by this section and such amounts may  
16 be set up as a defense or counterclaim in any action to enforce the  
17 collection of such obligation and the borrower shall also recover a  
18 reasonable attorney fee.

19 (e) The interest rates prescribed in subsection (a) shall not apply to a  
20 business or agricultural loan. For the purpose of this section unless a loan  
21 is made primarily for personal, family or household purposes, the loan  
22 shall be considered a business or agricultural loan. For the purpose of this  
23 subsection, a business or agricultural loan shall include credit sales and  
24 notes secured by contracts for deed to real estate.

25 (f) Loans made by a qualified plan, as defined in section 401 of the  
26 internal revenue code, to an individual participant in such plan or to a  
27 member of the family of such individual participant, are not subject to the  
28 interest rates prescribed in subsection (a).

29 (g) The interest rates prescribed in subsection (a) shall not apply to a  
30 note secured by a real estate mortgage or a contract for deed to real estate  
31 where the note or contract for deed permits adjustment of the interest rate,  
32 the term of the loan or the amortization schedule.

33 (h) A first mortgage loan incurred for personal, family or household  
34 purposes may be subject to certain provisions of the uniform consumer  
35 credit code, K.S.A. 16a-1-101-~~to~~ through 16a-9-102, and amendments  
36 thereto, as follows:

37 (1) Certain high loan-to-value first mortgage loans are subject to the  
38 provisions of the uniform consumer credit code, other than its usury  
39 provisions. Examples of provisions of the uniform consumer credit code  
40 applicable to high loan-to-value first mortgage loans include, but are not  
41 limited to: Limitations on prepaid finance charges; mandatory appraisals;  
42 required disclosures; restrictions on balloon payments and negative  
43 amortization; limitations on late fees and collection costs; and mandatory

1 default notices and cure rights.

2 (2) Certain high interest rate first mortgage loans are subject to  
3 certain provisions of the uniform consumer credit code, including, without  
4 limitation, provisions ~~which~~ *that* impose restrictions on balloon payments  
5 and negative amortization.

6 (3) If the parties to a first mortgage loan agree in writing to make the  
7 transaction subject to the uniform consumer credit code, ~~than~~ *then* all  
8 applicable provisions of the uniform consumer credit code, including its  
9 usury provisions, apply to the loan.

10 This subsection is for informational purposes only and does not limit or  
11 expand the scope of the uniform consumer credit code.

12 (i) Subsections (b), (c) and (d) do not apply to a first mortgage loan  
13 if:

14 (1) The parties agree in writing to make the transaction subject to the  
15 uniform consumer credit code, K.S.A. 16a-1-101 ~~to~~ *through* 16a-9-102,  
16 and amendments thereto; or

17 (2) the loan is a high loan-to-value first mortgage loan subject to any  
18 provision of the uniform consumer credit code.

19 In the case of a loan described in ~~paragraphs~~ *paragraph* (1) or (2), the  
20 applicable provisions of the uniform consumer credit code shall govern the  
21 loan in lieu of subsections (b), (c) and (d).

22 *(j) The interest rates prescribed in subsection (a) shall not apply to a*  
23 *loan to any person to be used in the purchase or financing of a vehicle. A*  
24 *loan to any person to be used in the purchase or financing of a vehicle*  
25 *shall not exceed the interest rate provided in K.S.A. 16-201, and*  
26 *amendments thereto.*

27 Sec. 5. K.S.A. 8-2430, 8-2431, 8-2432 and 8-2438 and K.S.A. 2020  
28 Supp. 8-2404, 8-2444 and 16-207 are hereby repealed.

29 Sec. 6. This act shall take effect and be in force from and after its  
30 publication in the statute book.